
(2009) 11 DEL CK 0048
In the Delhi High Court
Case No : MAC. APP. 287 of 2008

Zamindar Motor Transport Co. P. Ltd.	Vs	APPELLANT
New India Assurance Co. and Others		RESPONDENT

Date of Decision : 18-11-2009

Acts Referred:

Citation : (2009) 11 DEL CK 0048

Hon'ble Judges : J.R. Midha, J

Bench : Single Bench

Advocate : Ranjan Kumar, for the Appellant; Kanwal Choudhary, for R-1, for the Respondent

Judgement

J.R. Midha, J.—The accident dated 24th February, 2007 resulted in the death of Ram Bhaj. The deceased was survived by his widow, two daughters, two sons and parents, who filed the claim petition before the learned Tribunal.

2. The learned Tribunal passed an award for Rs. 6,24,000/- in favour of the claimants/respondents No. 3 to 8 and against respondent No. 1. The learned Tribunal further held that the driving licence of the driver of the offending vehicle was fake and, therefore, respondent No. 1 was given the right to recover the award amount from the appellant.

3. It is noticed that in large number of cases, the insurance companies upon investigation after the accident discover the driving licence of the driver to be fake. The issuance of fake driving licence is a serious criminal offence. The victims of the road accidents suffer because the Insurance Companies deny the liability on the ground of fake licence. However, no action is taken by any authority against the persons who issue fake licence. The persons holding fake driving licence are danger to the society. They do not appear in test for the issuance of licence and may not have undergone proper training of driving. The persons holding fake driving licence may not even know driving or may be offenders whose licence have been cancelled for having caused an accident.

4. It is pointed out by learned Counsel for the respondent No. 1 that the Road Transport Authority and Police do not take any action against the persons who issue fake driving licences. It is submitted that there is no system by which the Police can easily detect whether a particular driving licence is fake or genuine. When a driver is employed, the employer has no means to verify that the driving licence produced by the driver is genuine. A licence is found to be fake only after the accident by the Investigator appointed by the insurance company. The learned Counsel for respondent No. 1 submits that not even a single case has come to his notice where persons issuing or holding fake driving licence have been prosecuted.

5. There is need to frame strict law to provide severe punishment for the persons who indulge in issuance of fake driving licence as well as the persons who hold the fake licence. The strict law for issuance of licence and for enforcing the same can reduce the number of accidents to a large extent.

6. Notice be, therefore, issued to the Road Transport Authority, Delhi and Commissioner of Delhi Police to ascertain as to what action is taken to curb the issuance of fake driving licences and against the persons who indulge in issuing fake driving licences.

7. Since the Ministry of Road Transport and Highways has constituted an Expert Committee to look into the amendments in the Motor Vehicles Act copy of this order be sent to the Secretary, Ministry of Road Transport and Highways as well as Shri S. Sunder, Chairman of the Expert Committee for considering the framing of strict law relating to the issuance of licence as well as for providing of severe punishment to the/persons issuing or using fake driving licences. The Committee may also consider the introduction of integrated online data of licences all over the country so that the fake driving licence can be easily detected by the Police and other authorities as well as by any employer at the time of employing the driver.

8. It is also noted that there are a large number of hit and run cases where the driver ran away after killing or injuring the victim of road accident. In the year 2007, there were 38% hit and run cases in Delhi. In many cases, the driver of the offending vehicle is not traced out and even in cases, where the driver is traced, by that time the vehicle has been repaired and there is no evidence of accident/damage to the vehicle. There are cases where the driver was drunk at the time of the accident, but by the time he is traced, the evidence of being drunk is destroyed.

9. The Expert Committee may also consider framing of law prohibiting the driver of the offending vehicle to leave the spot of accident and to remove the vehicle from the spot of the accident without the permission of the Police; and the offence of fleeing or removing the vehicle from the spot of accident may be made a stringent offence with severe punishment. In some of the countries, it is an offence to remove the vehicle from the spot of the accident or to repair the

vehicle involved in the accident without the permission of the Police and no mechanic repairs the vehicle involved in the accident without the written clearance from the Police. The Expert Committee may consider this aspect of the matter.

10. The Expert Committee may also consider constitution of a centralized Commission relating to motor accident claim cases to monitor the accidents all over the country, identify causes of the accidents, take action for preventing accidents and to ensure the disbursement of compensation to the victims of the road accident within a fixed time frame.

11. The accident cases need different type of investigation and handling by the Police. In road accidents, the eye-witnesses do not normally come forward to provide any assistance to the victims or to the Police. The victims of the road accidents suffer because of this. The Commissioner of Police may consider setting up a separate Wing for handling of the cases of the road accidents to ensure least inconvenience to the victims and the witnesses and to encourage the public to come forward and help the victims of the road accidents.

12. The response time of the Police and the Ambulance to reach the accident site is quite high and not commensurate with the international standards. There is need to evolve a system where the Police and the Ambulance immediately reach the accident site as the victims of the road accidents need immediate medical attention. Delhi Police and Secretary (Health), Government of NCT of Delhi is also directed to furnish the data as to how many Ambulances are available in Delhi to cater to victims of road accidents and what is the response time to reach the spot of the accident.

13. Over one lakh people are killed and nearly half a million are injured every year in road accidents in India. There is one accident per minute and one fatal accident every five minutes. According to survey of Central Road Research Institute, more than 90% pedestrians feel unsafe while crossing roads and they comprise more than 50% of the road victims. WHO Report predicts that by the year 2020, a major killer in India will be road accidents and will account for almost 5,46,000 deaths alone. The accident rate in India is 35 per thousand vehicles, which is the highest in the world.

14. The Hon'ble Supreme Court in the case of Rathnashalvan Vs. State of Karnataka, has examined the growing problem of road accidents and the economic impact of the road accidents. It has been held by the Hon'ble Supreme Court as under:

8. Vehicular accidents resulting in deaths and injuries is spiraling. The Editorial under the heading "Road Traffic Injuries & fatalities in India - a modern epidemic" in Indian J. Med. Res. 123, January 2006 contains some interesting observations. The relevant portions read as follows:

The United Nations General Assembly adopted a resolution on road safety on

October 26, 2005 which invites Member States to implement the recommendations of the World Report on Road Traffic Injury Prevention; to participate in the first United Nations Global Road Safety Week; and to recognize the third Sunday in November of every year as the World Day of Remembrance for Road Traffic Victims. This resolution follows the publication of The World Report on Road Traffic Injury Prevention by the World Health Organization in 2004. This report highlights the fact that all over the world working age people are more likely to suffer hospitalization, permanent disability and death due to road traffic injuries than most other diseases. The situation in India is not very different.

About 82,000 persons were killed on Indian roads in 2002. Official statistics regarding serious injuries are not reliable as they underestimate the actual number, but it is estimated that the number of people hospitalized may be 15-20 times the number killed. In a do-nothing scenario, it is possible that India will have 1,20,000 - 1,30,000 road traffic fatalities in the year 2008 and possibly 1,50,000 - 1,75,000 in 2015. Our vision should aim at reducing the fatalities to less than 1,00,000 in the short term (2008) and less than 70,000 in the long term (2015).

XXX XXX XXX Safety measures for the near future

XXX XXX XXX Motor vehicle occupants: (i) Enforcement of seatbelt use laws countrywide; (ii) restricting travel in front seat of cars by children has the potential of reducing injuries dramatically; and (iii) bus and truck occupant injuries, fatalities, and injuries caused to other road users can be reduced significantly by enforcing strict observance of speed limit regulations on highways. Ensuring that bus timetables and truck movement schedules make it possible for drivers to observe speed limits with ease. Random speed checking on highways would help ensure such measures.

XXX XXX XXX Road safety strategies - Long term

Traffic calming and speed control: (i) Aim at implementing speed control and traffic calming measures in all urban areas and at appropriate locations on rural highways by altering road design, vehicle monitoring through intelligent transport systems, and vehicle design by the year 2015. This measure is likely to give us the maximum savings in terms of lives and serious injuries; and (ii) segregated lanes for vulnerable road users and buses in urban areas. Non-motorized transport and buses must be provided segregated lanes on all major arterial roads in urban areas. India specific designs need to be developed and phase wise implementation plans drawn up for all cities.

XXX XXX XXX Vehicle safety: (i) All vehicles sold in India should meet international crashworthiness standards by 2010; (ii) all buses and trucks should meet pedestrian impact standards by 2010; (iii) all urban buses to have low floors and automatic closing doors; (iv) crashworthiness standards must be developed for all indigenous vehicles by 2010 and implemented by 2012; (v)

installation of Intelligent Transport Systems (ITS) and other modern safety devices for assisting and controlling drivers; and (vi) driving under the influence of alcohol and other drugs. A long term strategy to reduce drinking and driving incidence to less than 10 per cent of all crashes needs to be drawn up for the next 10 yr. Sensitization of the public to the extent of the problem. Institution of random roadblocks and checking on urban roads and rural highways. Ignition interlock on cars.

9. In "Global Road Safety" certain revealing data have also been provided. They read as follows:

The coming plague of road Traffic Injuries: A preventable burden for rich and poor Countries.

Almost 1.2 million people are killed each year and 20-50 million are injured or disabled, most people are unaware that road traffic injuries are a leading cause of death and disability.

10. In developing countries, death rates from vehicle crashes are rising, and disproportionately high in relation to the number of crashes. According to a report published in 2000

? Developing and transitional countries cumulatively represent over 85 percent of all road traffic deaths

? Kenya has nearly 2,000 fatalities per 10,000 crashes. Vietnam has over 3,000 fatalities per 10,000 crashes.

? 44% of all road traffic deaths occur in the Asia/Pacific area, which only has 16 % of the total number of motor vehicles.

? At 71,495 and 59,927 total deaths, China and India, respectively, had the highest number of road fatalities in the world in 1995.-

? Pedestrian deaths represent 62 % of all traffic fatalities in Lebanon. In most developing countries vulnerable road users, including pedestrians, bicycle and motor cycle riders, account for the majority of all fatalities.

? Eastern European countries represent 6% of motor vehicles, but 11% of crash fatalities worldwide.

? The Latin America/Caribbean region has the second highest crash costs behind Asia.

11. As developing countries increase vehicle use, road traffic injuries are expected to become the third leading cause of death and disability worldwide by 2020. In developing countries, each vehicle is much more lethal than the vehicles in developed countries, because it most frequently takes the lives not of vehicle occupants, but of vulnerable road users: pedestrians, cyclists. Many developing countries are increasing the rate of motorized vehicle use at up to 18% per year. In India, for example, there has been a 23% increase in the number of

vehicles from 1990-1999 and a 60-fold increase is predicted by 2050.

The human toll is tragic. Survivors and family members are affected not only by an immediate death or disability, but sometimes a lifetime of psychological and physical suffering. Crashes often result in orphans, and some victims, as young as infants, spend the rest of their lives in medical facilities.

Economic Impact

12. In addition to the devastating human toll, the economic impact of road crashes is also enormous. Many of those injured or killed are wage earners; leaving families destitute and without means of support. Loss of wages, property damage, and other factors affected by road traffic crashes represented 4.6% of the gross national product of the United States in 1994. In developing countries, road traffic crashes represent 3-5% of the GNP. The estimated annual cost of road traffic crashes in developing countries exceeds \$100 billion (US). This amounts to nearly double the total combined development assistance these countries receive every year from bilateral and multi-lateral government organizations. Globally, the estimated annual costs of road crashes are 500 billion (US).

This Problem is Preventable

13. We have the tools needed to combat this epidemic. In the developed nations, proven methods such as enforcement of laws regarding driving under the influence of alcohol or drugs, reducing speed limits, and requiring seat belts and restraints have shown significant reduction in traffic fatalities. Road design and road environment, vehicle design, and road safety standards are also strategies that successfully address traffic safety. For maximum impact of RTI's, a systems approach with multiple, scientifically proven prevention techniques must be employed. Education alone has been shown to be less effective, and often ineffective.

14. Proven interventions for developed countries require research, modification, and testing for developing countries. For example, developing countries face poorly designed and maintained roadways, unsafe vehicles, drivers under the influence of drugs or alcohol, lack of national policies, and inadequate enforcement. Success will require significant new resources supported by sustained political commitment.

15. The suggestions of this Court for consideration by the Expert Committee constituted by the Ministry of Road Transport and Highways are as under:

- (i) Strict rule regarding issuance of driving licence.
- (ii) Online data of the driving licences issued all over the country with record of suspension/cancellation of licence and disqualification of licence holders.
- (iii) Online data of registration and insurance particulars of all the vehicles so that immediately after the accident, the police can find out the Insurance Policy

number and send the intimation to the Insurance Company.

- (iv) Severe punishment for fake driving licence, both for the holders and forgers.
 - (v) Severe punishment for the accused who runs away from the spot after causing the accident.
 - (vi) Severe punishment for removing the vehicle from the spot of the accident.
 - (vii) Punishment for mechanic who repairs the vehicle involved in the accident without clearance by the police.
 - (viii) Severe punishment for drunken driving.
 - (ix) Improvement of roads.
 - (x) Removal of unsafe vehicles and obstructions from the road.
 - (xi) Special cell of the police to enforce the law as well as for investigation into the accident cases.
 - (xii) Formation of a centralized Commission relating to motor accident claim cases to monitor the number of accidents to examine the factors responsible for the accidents to take steps for preventing the accidents and to ensure time bound disbursement of compensation to the victims of the road accident.
16. List for hearing 10th December, 2009.
17. Copy of this order be sent to the Ministry of Road Transport and Highways and Shri S. Sunder, Chairman of the Expert Committee through Mr. Atul Nanda, Standing Counsel, under the signature of the Court Master.
18. Copy of this order be also sent to the Commissioner of Delhi Police through Mr. Vikas Pahwa, Additional Standing Counsel, under the signature of the Court Master.
19. Copy of this order be also sent to the Road Transport Authority and Secretary (Health), Government of NCT of Delhi through Mr. Vivek Tandon, Counsel for Government of NCT of Delhi, under the signature of the Court Master.
20. Copy of this order be also given dasti to learned Counsel for the parties, under the signature of the Court Master.